IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 25TH OCTOBER 2007 / 3RD KARTHIKA 1929

WA.No. 2284 of 2007

(AGAINST THE JUDGEMENT IN OP.23497/2000 Dated 15/03/2007)

APPELLANT/FIRST RESPONDENT:

THE CALICUT DEVELOPMENT AUTHORITY,
JAYAPRAKASH NARAYAN ROAD,
NEAR RAILWAY STATION ROAD,
KOZHIKODE-2
NOW DEVELOPMENT WING OF CORPORATION,
KOZHIKODE,
REPRESENTED BY ITS SECRETARY.

BY ADV. SRI.V.M.KURIAN
ADV. SRI.MATHEW B. KURIAN
ADV. SRI.K.T.THOMAS

RESPONDENTS/PETITIONER AND SECOND RESPONDENT:
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1. M.K.RAJENDRAN,
VALAPPIL HOUSE,
RAM MOHAN ROAD,
CALICUT-4.

2. STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY,
THIRUVANANTHAPURAM.

R1 BY ADV. SRI.V.N.ACHUTHA KURUP (SR.)
ADV. SRI.B.S.SWATHY KUMAR
R2 BY GOVERNMENT PLEADER SHRI M.P. SREEKRISHNAN.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 25/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

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W.A. No. 2284 OF 2007

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Dated this the 25th October , 2007

J U D G M E N T

H.L. Dattu, C.J.:

This appeal is directed against the orders passed by the learned single Judge in O.P.No. 23497 of 2000 dated 15th March, 2007.

2. The petitioner in the Original Petition was before this court inter alia seeking a writ in the nature of certiorari to quash Ext.P20 order issued by the respondent-Calicut Development Authority ('Authority' for short).

3. This Court, while entertaining the Original Petition had granted an interim order, staying Ext.P20 order dated 20.05.2000 passed by the respondent-Authority.

4. Nearly after seven years from the date of filing of the Original Petition, the matter has been disposed of by this Court, rejecting the Original Petition.

5. This Court, while confirming Ext.P20 order passed by the appellant/respondent-Authority dated 20.05.2000, has granted a very minor relief to the petitioner in the Original Petition and while doing so, this Court has observed that because of the pendency of the Original Petition before this Court and because of the interim order granted, the interest part on the arrears of rental payable by the petitioner has mounted and therefore some reliefs require to be granted to the petitioner. Therefore, the Court had directed the petitioner to pay the arrears of rental with 2/3rd interest at the

agreed rate, on or before a particular day. Further, the Court has waived 1/3rd of the interest on the arrears of rental payable by the petitioner.

6. Aggrieved by the discretionary orders so passed by the learned single Judge, the appellant/respondent-Authority is before us in this Writ Appeal.

7. Shri K.T. Thomas, learned counsel appearing for the appellant/respondent-Authority would submit that the learned single Judge, while rejecting the Original Petition, was not justified in waiving the interest agreed upon by the petitioner as per the agreement between the parties.

8. In our opinion, the submission of the learned counsel for the appellant/respondent-Authority has no merit whatsoever. As we have already noticed, the Original Petition was filed sometime in the year 2000 and this Court had granted an interim order staying Ext.P20 order passed by the appellant/respondent-Authority. In view of the interim order granted by this court, the petitioner in the Original Petition/1st respondent herein had not paid the arrears of rental. While disposing of the Original Petition, the learned single Judge has come to the conclusion that because of the interim order granted by this Court, the interest on the arrears of rental has mounted and therefore, some reliefs require to be granted to the petitioner. Those orders are passed by the learned single Judge in exercise of his extraordinary and discretionary jurisdiction and while doing so, the Court has assigned appropriate reasons . In that view of the matter, we do not see any good

grounds to interfere with the orders and directions issued by the learned single Judge. Accordingly, the Writ Appeal requires to be rejected and it is rejected.

8. Pending Interlocutory Application is also disposed of.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

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